

77-3a-101. Civil stalking injunction -- Petition -- Ex parte injunction.

(1) As used in this chapter, "stalking" means the crime of stalking as defined in Section 76-5-106.5. Stalking injunctions may not be obtained against law enforcement officers, governmental investigators, or licensed private investigators, acting in their official capacity.

(2) Any person who believes that he or she is the victim of stalking may file a verified written petition for a civil stalking injunction against the alleged stalker with the district court in the district in which the petitioner or respondent resides or in which any of the events occurred. A minor with his or her parent or guardian may file a petition on his or her own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

(3) The Administrative Office of the Courts shall develop and adopt uniform forms for petitions, ex parte civil stalking injunctions, civil stalking injunctions, service and any other necessary forms in accordance with the provisions of this chapter on or before July 1, 2001. The office shall provide the forms to the clerk of each district court.

(a) All petitions, injunctions, ex parte injunctions, and any other necessary forms shall be issued in the form adopted by the Administrative Office of the Courts.

(b) The offices of the court clerk shall provide the forms to persons seeking to proceed under this chapter.

(4) The petition for a civil stalking injunction shall include:

(a) the name of the petitioner; however, the petitioner's address shall be disclosed to the court for purposes of service, but, on request of the petitioner, the address may not be listed on the petition, and shall be protected and maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown;

(b) the name and address, if known, of the respondent;

(c) specific events and dates of the actions constituting the alleged stalking;

(d) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and

(e) corroborating evidence of stalking, which may be in the form of a police report, affidavit, record, statement, item, letter, or any other evidence which tends to prove the allegation of stalking.

(5) (a) If the court determines that there is reason to believe that an offense of stalking has occurred, an ex parte civil stalking injunction may be issued by the court that includes any of the following:

(i) respondent may be enjoined from committing stalking;

(ii) respondent may be restrained from coming near the residence, place of employment, or school of the other party or specifically designated locations or persons;

(iii) respondent may be restrained from contacting, directly or indirectly, the other party, including personal, written or telephone contact with the other party, the other party's employers, employees, fellow workers or others with whom communication would be likely to cause annoyance or alarm to the other party; or

(iv) any other relief necessary or convenient for the protection of the petitioner and other specifically designated persons under the circumstances.

(b) If the petitioner and respondent have minor children, the court shall follow the provisions of Section 78B-7-106 and take into consideration the respondent's custody

and parent-time rights while ensuring the safety of the victim and the minor children. If the court issues a civil stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered.

(6) Within 10 days of service of the ex parte civil stalking injunction, the respondent is entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.

(a) A hearing requested by the respondent shall be held within 10 days from the date the request is filed with the court unless the court finds compelling reasons to continue the hearing. The hearing shall then be held at the earliest possible time. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

(b) An ex parte civil stalking injunction issued under this section shall state on its face:

(i) that the respondent is entitled to a hearing, upon written request within 10 days of the service of the order;

(ii) the name and address of the district court where the request may be filed;

(iii) that if the respondent fails to request a hearing within 10 days of service, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and that the civil stalking injunction expires three years after service of the ex parte civil stalking injunction; and

(iv) that if the respondent requests, in writing, a hearing after the ten-day period after service, the court shall set a hearing within a reasonable time from the date requested.

(7) At the hearing, the court may modify, revoke, or continue the injunction. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

(8) The ex parte civil stalking injunction and civil stalking injunction shall include the following statement: "Attention. This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and any other crime you may have committed in disobeying this order."

(9) The ex parte civil stalking injunction shall be served on the respondent within 90 days from the date it is signed. An ex parte civil stalking injunction is effective upon service. If no hearing is requested in writing by the respondent within 10 days of service of the ex parte civil stalking injunction, the ex parte civil stalking injunction automatically becomes a civil stalking injunction without further notice to the respondent and expires three years from the date of service of the ex parte civil stalking injunction.

(10) If the respondent requests a hearing after the ten-day period after service, the court shall set a hearing within a reasonable time from the date requested. At the hearing, the burden is on the respondent to show good cause why the civil stalking injunction should be dissolved or modified.

(11) Within 24 hours after the affidavit or acceptance of service has been returned, excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of service or acceptance of service in the statewide network for

warrants or a similar system.

(a) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction shall not depend upon its entry in the statewide system and, for enforcement purposes, a certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to be a valid existing order of the court for a period of three years from the date of service of the ex parte civil stalking injunction on the respondent.

(b) Any changes or modifications of the ex parte civil stalking injunction are effective upon service on the respondent. The original ex parte civil stalking injunction continues in effect until service of the changed or modified civil stalking injunction on the respondent.

(12) Within 24 hours after the affidavit or acceptance of service has been returned, excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or modified civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

(13) The ex parte civil stalking injunction or civil stalking injunction may be dissolved at any time upon application of the petitioner to the court which granted it.

(14) The court clerk shall provide, without charge, to the petitioner one certified copy of the injunction issued by the court and one certified copy of the proof of service of the injunction on the respondent. Charges may be imposed by the clerk's office for any additional copies, certified or not certified in accordance with Rule 4-202.08 of the Code of Judicial Administration.

(15) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The district court shall hear and decide all matters arising pursuant to this section.

(16) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees.

(17) This chapter does not apply to protective orders or ex parte protective orders issued pursuant to Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, or to preliminary injunctions issued pursuant to an action for dissolution of marriage or legal separation.

Amended by Chapter 383, 2012 General Session